

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 222
93RD GENERAL ASSEMBLY

Reported from the Committee on Economic Development, Tourism and Local Government, February 28, 2005, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

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TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 149, RSMo, by adding thereto one new section relating to which tobacco products can be lawfully sold in Missouri.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 149, RSMo, is amended by adding thereto one new section, to be known as section 149.220, to read as follows:

149.220. 1. Notwithstanding any law or rule to the contrary, any person licensed and required under chapter 149, to affix a tax stamp on cigarette packages or any retailer, who in good faith offers for sale or sells cigarettes that do not comply with state law, shall not be subject to any administrative, civil, or criminal seizures, forfeitures, suspensions, fines, or punishments for offering for sale or selling the noncompliant cigarette. The provisions of this section shall not relieve a wholesaler or retailer from any penalty imposed by law for the sale of cigarettes where a tax stamp has not been lawfully applied in accordance with chapter 149.

2. In the event a cigarette is declared to be not in compliance with state law, cigarette wholesalers are prohibited from making further purchases from manufacturers of the noncompliant cigarette, but cigarette wholesalers may lawfully stamp and sell to retailers any inventory of the noncompliant cigarettes for thirty days from the declaration date, and retailers have sixty days from the declaration date to purchase from wholesalers and sell lawfully any of the noncompliant cigarette.

3. The declaration that a cigarette does not comply with state law shall be published immediately and conspicuously posted on the website of both the attorney general and the department of revenue. The director of the department of revenue shall also directly notify all wholesalers in writing sent via United States mail of the manufacturers and cigarette brands that are no longer lawful

to sell in this state and within five days of such notification the wholesaler shall provide the director with a count of said manufacturer's cigarette brands that the wholesaler is holding in inventory for sale in this state.

4. The director of the department of revenue and attorney general shall notify a cigarette manufacturer, in writing sent via United States mail, thirty days prior to making such manufacturer's cigarette brands unlawful for sale in this state and shall state the reason or reasons such cigarettes shall no longer be lawfully sold. The cigarette manufacturer shall have the right to remedy any reason the director or attorney general gives for making it unlawful to sell such cigarette brands in this state and in the event said manufacturer provides such remedy, the director and attorney general shall cease any impending action to make such manufacturer's brands unlawful for sale. Any manufacturer who is aggrieved by any declaration of noncompliance shall have the right to seek relief, including injunctive relief, in a court of competent jurisdiction.

5. The definition of the terms "cigarette", "manufacturer", "tax stamp", and "wholesaler" are contained in section 149.011.

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